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OFFICE OF PETITIONS

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In re Patent No. 7,655,642 : DECISION ON REQUEST
Freyne, et al. : FOR
Issue Date: February 2, 2010 : RECONSIDERATION OF
Application No. 10/596,509 : PATENT TERM ADJUSTMENT
Filed: June 15, 2006 : and
Atty Docket No. PRD-2168USPCT : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on March 26, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred and forty-three (443) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by four hundred and thirty-nine (439) days¹ is **GRANTED to the extent indicated herein.**

¹ The "B" delay period is 228 days, not 232 days. In calculating the "B" delay period, patentee used the date of June 15, 2006, as the date the national stage commenced under 35 U.S.C. 371(b). In an international application, the "B" delay period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 1.702(b). The priority date of this application is December 18, 2003. The date that is 30 months from the priority date is Sunday June 18, 2006. As the national stage cannot commence on a weekend or federal holiday, the date the national stage commenced in this application is Monday, June 19, 2006. Thus, "B" delay is 228 days, counting the number of days beginning on June 20, 2009, and ending on February 2, 2010, the date of issuance. See 1.703(b).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by four hundred thirty-nine **(439)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.



Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,655,642 B2

DATED : Feb. 2, 2010

INVENTOR(S) : Freyne et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (217) days

Delete the phrase "by 217 days" and insert – by 439 days--